

Honolulu Authority for Rapid Transportation

**CONTRACT FOR
COMPLEX CONSTRUCTION CLAIMS NEGOTIATION AND LITIGATION
SERVICES
PROFESSIONAL SERVICES CONTRACT
CONTRACT No. SC-HRT-1600121**

This Contract for Professional Services ("Contract" or "Agreement") is entered into and effective JUN 29 2016 ("Effective Date") by and between the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION ("HART"), a semi-autonomous agency of the City and County of Honolulu, (the "City") whose principal place of business and mailing address is Ali'i Place, 17th Floor, 1099 Alakea Street, Honolulu, Hawaii 96813, and KOBAYASHI SUGITA & GODA, LLP. (the "CONTRACTOR"), whose principal place of business and mailing address is 999 Bishop Street, Suite 2600, Honolulu, Hawaii 96813, collectively referred to herein as the "Parties," and individually as a "Party," all as governed by the context in which such words are used.

WITNESSETH:

WHEREAS, HART desires to engage the CONTRACTOR to provide legal advice, claims support, and representation in alternative dispute resolution and/or court proceedings with respect to construction contract disputes;

WHEREAS, the services entered into hereunder are technical and professional in nature and HART personnel are not able to provide these services;

WHEREAS, the CONTRACTOR was selected pursuant to Hawaii Revised Statutes ("HRS") Section 103D-303, as amended, and related Hawaii Administrative Rules ("HAR"), relating to competitive sealed proposals, under RFP-HRT-976504;

WHEREAS, federal funding is involved in this project and, as such, the CONTRACTOR is required to comply with all applicable federal laws, rules and regulations, including but not limited to those of the United States Department of Transportation, Federal Transit Administration;

WHEREAS, the CONTRACTOR is qualified, able, and willing to render the required services on the terms, conditions, and compensation hereinafter fully set forth; and

NOW, THEREFORE, HART and the CONTRACTOR, in consideration of the foregoing and of the mutual promises hereinafter set forth, and intending to be legally bound, hereby mutually agree as follows:

1. Work. The CONTRACTOR shall, in a professional, proper and satisfactory manner as determined by HART, furnish all services, labor, materials, equipment, and other

incidentals reasonably necessary for the successful performance and completion of the scope of work ("Work") as set forth in the Contract Documents.

2. Notice to Proceed. The CONTRACTOR shall not commence the Work on any Task Order until HART issues a written Notice to Proceed ("NTP"). Any Work undertaken by the CONTRACTOR prior to issuance of the NTP shall be the sole responsibility of and undertaken at the sole risk of the CONTRACTOR, without any obligation on HART's behalf.

3. Contract Documents. This Contract, along with the documents listed below and incorporated by reference herein, comprise the "Contract Documents," "Contract" or "Agreement." The Contract Documents are listed in descending order of precedence, with the latest version taking precedence over older versions:

- This Contract Form and any amendments thereto;
- Task Orders;
- Special Provisions and any exhibits, attachments, appendices or required submittals thereto;
- HART's General Terms and Conditions for Professional Services, (v. 04/2016) ("GC" or "General Conditions");
- The Request for Proposals and any addenda thereto; and
- The Contractor's proposal and required submissions.

To the extent that the Contractor's Proposal contains provisions that exceed the requirements set forth in other Contract Documents, then those provisions shall be construed as the new minimum requirements. Any modifications, changes or amendments to the Contract Documents shall be incorporated and made part of this Contract.

4. Term. The term of this Contract shall be five (5) years from issuance of the written NTP, with an option or options to extend for up to an additional three (3) years.

5. Contract Type and Contract Cost. This is a Task Order, time and materials contract, unless designated otherwise (e.g., fixed price) in a Task Order. This Contract with an allowance for reimbursable expenses, shall not exceed TWO HUNDRED SEVENTY THOUSAND AND NO/100 DOLLARS (\$270,000.00). The Contractor shall be compensated for its satisfactory performance and completion of the Work as specified in each Task Order utilizing the rates provided in Appendix B-1a to the Special Provisions. All compensation paid to the Contractor under this Contract is inclusive of, but not limited to, labor, overhead, general and administrative expenses, other direct costs, subcontractor costs, fixed fees, and all applicable taxes, including but not limited to the State general excise and use tax ("GET") and the City and County of Honolulu's one-half percent (0.5%) GET surcharge. The Contractor shall not be entitled to any additional compensation under this Contract due to future increases in tax.

6. Cost and Pricing Data. The CONTRACTOR hereby certifies that, to the best of its knowledge and belief, cost or pricing data, as defined in HAR § 3-122-122 and submitted pursuant to HAR § 3-122-125, is accurate, complete, and current as of the Effective Date. This certification includes any cost or pricing data which is part of the proposal.

7. Notices. Any notice required or permitted hereunder to be given shall be written and shall either be delivered personally or mailed by certified mail to the address and person designated by each Party below. Any change of address of either of the Parties shall be effective upon receipt of written notice of such change by the other Party.

Notices to HART shall be sent to HART's Executive Director and CEO as follows:

Daniel A. Grabauskas
Executive Director and CEO
Honolulu Authority for Rapid Transportation
1099 Alakea Street Suite 1700
Honolulu, Hawaii 96813

With copy to: Nicole Chapman, Director of Procurement and Contracts

Notices to the CONTRACTOR shall be sent to:

Joseph A. Stewart, Esq.
Kobayashi Sugita & Goda, LLP
999 Bishop Street, Suite 2600
Honolulu, Hawaii 96813


8. This Contract cannot be modified except by a written instrument signed by both Parties.

IN WITNESS WHEREOF, HART and the CONTRACTOR have executed this Contract by their duly authorized officers or agents on the day and year first above written.

HONOLULU AUTHORITY FOR
RAPID TRANSPORTATION

By: 
Its Executive Director and CEO

KOBAYSHI SUGITA &
GODA, LLP

By: 
Its Managing Partner

APPROVED AS TO FORM AND
LEGALITY:

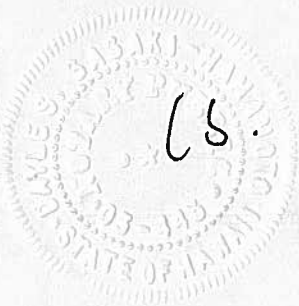

Deputy Corporation Counsel
REID M. YAMASHIRO

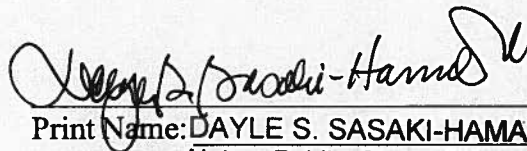
STATE OF HAWAII)

CITY AND COUNTY OF HONOLULU)

SS:

On JUN 23 2016, before me appeared JOSEPH A. STEWART, to me known to be the person who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

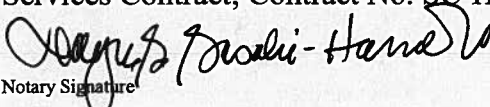
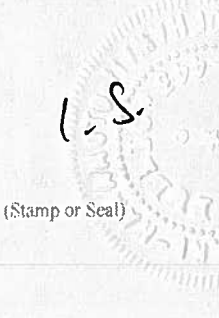




Print Name: DAYLE S. SASAKI-HAMAMOTO

Notary Public, State of Hawaii

My commission expires August 3, 2019

Date of Document: undated		# Pages: 4
Name of Notary Public: Dayle S. Sasaki-Hamamoto		First Circuit
Document Description: Honolulu Authority for Rapid Transportation; Contract For Complex Construction Claims Negotiation And Litigation Services; Professional Services Contract; Contract No. SC-HRT-1600121  Notary Signature		 (Stamp or Seal)
NOTARY CERTIFICATION JUN 23 2016		

HART-12 (11/11)

Certificate

The attached contract for Complex Construction Claims Negotiation and Litigation Services Contract

(\$270,000.00)

is hereby approved as to availability and designation of funds, and certification is hereby made that there is a valid appropriation from which expenditures to be made under said contract may be made and that sufficient unencumbered funds will be available in the Treasury of the City and County of Honolulu to the credit of such appropriation to pay the amounts of such expenditures when the same become due and payable.

CONTRACT NO. SC - HRT - 1600121

FUND Transit Fund (290)

ACCOUNT NO.

290/3001 - 16 = \$ 270,000.00 (3015)

TOTAL = \$ 270,000.00

HONOLULU, HAWAII

Date:

Executive Director and CEO

Honolulu Authority for Rapid Transportation

AS
6/28/16